

DEALING WITH OPPOSING COUNSEL AND YOUR CLIENT
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KCMBA INN OF COURT PROGRAM
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“To win one hundred victories in one hundred battles is not the highest skill. To subdue the enemy without fighting is the highest skill.”

SUN TZU The Art of War

Dealing With Incivility/Lack of Professionalism by Lawyers

Defense and Aggression

“Those on the path of the Great Integrity never use military force to conquer others. Every aggressive act harvests its own counter-terrorism.

**Wherever the military marches,
the killing fields lay to waste to the land,
yielding years of famine and misery.**

**When attacked, those on the path of the Great Integrity defend themselves benevolently,
never revenging.**

**Achieve success without arrogance,
without seeking glory,
and without violating others.**

**Aggression leaches our strength and humanity,
subverting the Great Integrity,
and inviting disaster.”**

LAO TZU Tao Te Ching

Bullies, Tyrants, and Impossible People¹

THE “N.I.C.E. SYSTEM”² AND HOW IT WORKS

N - Neutralize your emotions. Dealing with difficult people can be an emotional challenge. The more emotional you are, the less rational you behave. Conversely, the more your emotions are in check, the more you can be in control of a positive outcome.

I - Identify the type of “difficult.” There are three basic types of difficult people (and several permutations of each).

The Situationally Difficult: Those people whose situation or circumstances make them difficult.

The Strategically Difficult: Those people who believe being unreasonable is effective.

The Simply Difficult: Those people with an ingrained personality characteristic.

C - Control the encounter. Once you know which type of difficult individual you face, you can employ the appropriate techniques to help shape and determine the outcome of the encounter. If you utilize the right techniques, you can change the fate of deals, meetings, and everyday confrontations.

E - Explore options. Even after shaping the encounter, you may still be at an impasse. The process of getting “unstuck” often requires the development of options - alternative solutions - so both sides can give and get. (This includes the option of ending without escalating, reserved for those instances in which the best deal is no deal, which can preserve the possibility of a future deal.)

Dealing with Personality Disorders and Dysfunctional Emotion in Litigation

Dysfunctional Emotions

Aggressive

Angry

Hysterical

Insensitive

Lying, Misleading and False Statements

Irrational Ideas or Positions

¹Robert M. Shapiro, et al., Bullies, Tyrants & Impossible People: How to Beat Them Without Joining Them (2005).

²Ronald M. Shapiro & Mark A. Jankowski, The Power of Nice (2d ed. 2001).

The Warning Signs

Consistently state their needs are more important than anyone else's

Problems are not their fault

"I want it now"

If I don't get my way someone will pay

Emotional over-reactivity

You feel yourself responding with equal irrationality

Personality Disorders

NARCISSIST is oblivious to own behavior and feels victimized

HISTRIONIC reports drama

ANTISOCIAL reports worrying/nags in past relationships

BORDERLINE complains people are always letting them down

Dealing with Difficult Clients

Understand your role

Protect yourself throughout

Be calm and patient

Use the N.I.C.E. System

Prepare, prepare, prepare

Manage expectations

Communications!

Ancient Wisdom of the Sage

**The sage has no set mind.
She adopts the concerns of others as her own.**

**She is good to the good.
She is also good to the bad.
This is real goodness.**

**She trusts the trustworthy.
She also trusts the untrustworthy.
This is real trust.**

**The sage takes the minds of the worldly
and spins them around.
People drop their ideas and agendas,
and she guides them like beloved children.**

LAO TZU *The Tao Te Ching*